

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH**

VALTRUS INNOVATIONS LTD.,

Plaintiff,

v.

MICRO FOCUS SOFTWARE, INC.,

Defendant.

**DECLARATION OF MICHAEL  
HARBOUR IN SUPPORT OF  
PLAINTIFF VALTRUS  
INNOVATIONS LIMITED'S  
MOTION TO COMPEL  
COMPLIANCE WITH SUBPOENA  
TO MICRO FOCUS**

Civil. Action No. 2:22-mc-399

I, Michael Harbour, hereby declare as follows:

1. I am a partner at Irell & Manella LLP, counsel for Plaintiff Valtrus Innovations Ltd. (“Valtrus”). I am an attorney and a member in good standing of the Bar of the State of California. I provide this declaration in support of Plaintiff Valtrus Innovations Limited’s Motion to Compel Compliance with Subpoena to Micro Focus. I have personal knowledge of the information set forth herein and could and would testify competently thereto if called as a witness.

2. On May 23, 2023, the Patent Trial and Appeal Board (“PTAB”) granted Valtrus’s motions for additional discovery in PTAB proceedings IPR2022-01497 and IPR2022-01545, permitting Valtrus to serve subpoenas on Micro Focus seeking source code, documentation, and the deposition of a Micro Focus representative. Micro Focus is not a party to the PTAB proceedings. On information and belief, Micro Focus has its United States headquarters in this district at 1800 S. Novell Place, Provo, Utah 84606.

3. Attached as **Exhibit 1** is a true and correct copy of a proof of service from Nationwide Legal, LLC, indicating that Aaron Crandall accepted personal service of Valtrus’s subpoenas to Micro Focus’s Provo, Utah office at 2:45 p.m. on May 26, 2023.

4. Attached as **Exhibit 2** is a true and correct copy of U.S. Patent No. 6,728,704.

5. Attached as **Exhibit 3** is a true and correct copy of U.S. Patent No. 6,738,764.

6. Attached as **Exhibit 4** is a true and correct copy of a September 1, 2017 press release webpage entitled “Hewlett Packard Enterprise Completes Spin-Off and Merger of Software Business with Micro Focus,” last visited on June 18, 2023 and available at <https://www.hpe.com/us/en/newsroom/press-release/2017/09/hewlett-packard-enterprise-completes-spin-off-and-merger-of-software-business-with-micro-focus.html>.

7. Attached as **Exhibit 5** is a true and correct copy of U.S. Patent No. 6,711,569.

8. Attached as **Exhibit 6** is a true and correct copy of U.S. Patent No. 7,231,381.

9. The PTAB's order granting Valtrus's requests for discovery, a true and correct copy of which is attached here as **Exhibit 7**, specifically approves the scope and content of Valtrus's requests to Micro Focus. Valtrus's requests as approved by the PTAB are included in Appendix A therein.

10. Attached as **Exhibit 8** is a true and correct copy of the requests for documents and deposition as served on Micro Focus.

11. Attached as **Exhibit 9** is a true and correct copy of an email chain between Elizabeth M. Manno of Venable LLP, outside counsel for Micro Focus, to H. Annita Zhong of Irell & Manella LLP, outside counsel for Valtrus, discussing the subpoenas to Micro Focus between June 1, 2023 and June 7, 2023.

12. Attached as **Exhibit 10** is a true and correct copy of a June 9, 2023 letter from Elizabeth M. Manno of Venable LLP, outside counsel for Micro Focus, to H. Annita Zhong of Irell & Manella LLP, outside counsel for Valtrus.

13. Attached as **Exhibit 11** is a true and correct copy of a June 12, 2023 letter from myself to Elizabeth Manno of Venable LLP. Attached to that letter are claim charts for U.S. Patent Nos. 6,728,704 and 6,738,764. Valtrus also separately sent Micro Focus the exhibits referenced in the claim charts. These publications included, for example, numerous Verity press releases, several white papers, including one titled "A Platform for Building Scalable, Precision, High-Performance Knowledge Retrieval Applications," various academic articles and abstracts, and a description of the Verity Developers Kit, among others.

14. Attached as **Exhibit 12** is a true and correct copy of the signed subpoenas issued by Valtrus's attorney of record in the PTAB proceedings to Micro Focus's Provo office.

15. Attached as **Exhibit 13** is a true and correct copy of an archived November 4, 2005 Information World Review webpage entitled "Autonomy pays \$500m to acquire Verity," last visited

on June 19, 2023 and available at <https://web.archive.org/web/20061102231258/http://www.iwr.co.uk/information-world-review/news/2145548/autonomy-buys-verity-500m-deal>.

16. Attached as **Exhibit 14** is a true and correct copy of an October 3, 2011 Reuters news story entitled “HP closes Autonomy deal,” last visited on June 19, 2023 and available at <https://www.reuters.com/article/us-hp-autonomy-idUSTRE79269E20111003>.

17. After Valtrus served the subpoenas on Micro Focus, the parties proceeded to meet and confer. Micro Focus was initially cooperative, and the parties had several preliminary discussions regarding the timing of review of source code, production of documents, and a potential deposition of Micro Focus’s corporate representative. To further ease the burden on Micro Focus, Valtrus offered to pay for the cost of the collection, review and production of the materials, and to pay for a non-commercial license to all the materials produced.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed on June 19, 2023 at Los Angeles, California.

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/s/ Michael Harbour  
Michael Harbour